



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS01000 L58530000 EU0000 241A; MO#4500163717; TAS: 22X]

Notice of Realty Action: Direct Sale of Public Land for Affordable Housing

Purposes in Henderson, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) proposes to sell a 5-acre parcel of public land located in the southern portion of the Las Vegas Valley, Nevada, under the authorities of section 203 of the Federal Land Policy and Management Act of 1976, as amended (FLPMA), BLM land sale regulations, and the Southern Nevada Public Land Management Act of 1998, as amended (SNPLMA). The BLM proposes that the parcel be sold by direct sale to the Clark County Department of Social Services (Clark County), a division of the State of Nevada, at less than the appraised fair market value, for affordable housing purposes pursuant to section 7(b) of SNPLMA and applicable BLM policy.

DATES: Submit written comments regarding this direct sale until [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Mail written comments to the BLM Las Vegas Field Office, Assistant Field Manager, Division of Lands, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130.

FOR FURTHER INFORMATION CONTACT: Kerri-Anne Thorpe, Supervisory Realty Specialist, Las Vegas Field Office, by email: kthorpe@blm.gov, or by telephone: (702) 515-5176. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access

telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: Clark County submitted a sale nomination application to the BLM for the proposed affordable housing project called Pebble and Eastern Affordable Housing Development (Pebble and Eastern Project). The sale parcel is in the City of Henderson, north of Pebble Road and west of Eastern Avenue, in the southeast part of the Las Vegas Valley. The parcel is further described as:

Mount Diablo Meridian, Nevada

T. 22 S., R. 61 E.,

sec. 14, W1/2SE1/4SE1/4SE1/4.

The area described contains 5 acres, according to the official plats of the surveys of said land on file with the BLM.

This direct sale is in conformance with the BLM Las Vegas Resource Management Plan Record of Decision LD-1, approved on October 5, 1998. The Las Vegas Valley Disposal Boundary Environmental Impact Statement and Record of Decision issued on December 23, 2004, and the Las Vegas In-Valley Area Multi-Action Analysis Environmental Assessment (DOI-BLM-NV-S010-2016-0054-EA) analyzed the sale of this parcel. A parcel-specific Determination of NEPA Adequacy (DOI-BLM-NV-S010-2020-0034-DNA) was prepared in connection with this notice. The parcel is not required for any Federal purpose.

Under SNPLMA section 7(b), the Secretary of the Interior, in consultation with the Secretary of Housing and Urban Development (HUD), may make BLM-administered public lands available for affordable housing purposes in the State of Nevada at less than the appraised fair market value. Attachment 1 of Instruction Memorandum NV-2006-067 (Authority and Provisions for Land Disposal for Affordable Housing), also referred to as

the Nevada Guidance, provides the discount percentages that may be administratively applied to the fair market value for affordable housing sales. For the purposes of SNPLMA, housing is “affordable housing” if it serves low-income families as defined in section 104 of the Cranston-Gonzales National Affordable Housing Act (Cranston-Gonzales Act). The Cranston-Gonzales Act defines “low-income families” as families whose incomes do not exceed 80 percent of the median income for the area as determined by HUD, or as otherwise adjusted by statute. Clark County’s proposed Pebble and Eastern Project would use 100 percent of the parcel to serve senior citizens, including seniors with special needs, with income at or below 60 percent of the area median income, which represents extremely low income based on the Nevada Guidance.

Clark County’s application includes a comprehensive plan for assessment and evaluation of the need for and feasibility of this affordable housing project. As required by SNPLMA section 7(b), HUD reviewed the Pebble and Eastern Project and provided the BLM with a No Objection letter dated September 9, 2021. HUD’s No Objection letter confirmed that the Pebble and Eastern Project, as proposed, will utilize 100 percent of the land to serve low and very low-income families whose income is 60 percent or less of the area median income. HUD further confirmed that the Pebble and Eastern Project location and need are consistent with section 7(b) of SNPLMA and the Cranston-Gonzales Act.

In accordance with regulations at 43 CFR 2710.0-3(a)(2), "Disposal of such tract shall serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on lands other than public lands and which outweigh other public objectives and values ...". The BLM is offering the identified parcel by direct sale to Clark County pursuant to 43 CFR 2711.3-3(a) because, consistent with SNPLMA 7(b) and the Nevada Guidance, the County proposes to use the parcel for affordable housing purposes, as described in the

Pebble and Eastern Project documentation.

The appraised fair market value for the 5-acre parcel is \$4,500,000.00. BLM has determined that a 95 percent discount rate is appropriate for this direct sale and that the discounted sale price will be \$225,000.00.

According to SNPLMA section 4(c), lands identified within the Las Vegas Valley Disposal Boundary are withdrawn from location and entry under the mining laws and from operation under the mineral leasing and geothermal leasing laws until such time as the Secretary of the Interior terminates the withdrawal or the lands are patented.

Upon publication of this notice in the *Federal Register*, the described land will be segregated from all forms of appropriation under the public land laws, except for the sale provisions of FLPMA, and the BLM will no longer accept land use applications affecting the parcel identified for sale. The parcel may be subject to land use applications received prior to publication of this notice if processing the application would have no adverse effect on the marketability of title, or the fair market value of the parcel. The segregative effect of this notice terminates upon issuance of a patent or other document of conveyance to such lands, or publication in the *Federal Register* of a termination of the segregation, whichever occurs first. The total segregation period may not exceed 2 years unless extended by the BLM Nevada State Director in accordance with 43 CFR 2711.1-2(d) prior to the termination date.

The public land would not be offered for sale to Clark County prior to 60 days from the date of publication of this notice in the *Federal Register*. The BLM will publish this Notice of Realty Action (Notice) once a week for three consecutive weeks in the *Las Vegas Review-Journal* newspaper.

The patent, if issued to Clark County, will be subject to the following covenants, terms, and conditions:

1. Affordable Housing: Pursuant to section 7(b) of SNPLMA, the term “affordable

housing” as used in the patent, means housing that serves low-income families as defined in section 104 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12704).

2. Affordable Housing Purpose: For purposes of the patent, the term “affordable housing purpose” means for an affordable housing project which commits 100 percent of living space to affordable housing, and which overall is used for no purpose other than residential use and related residential use amenities.
3. Construction: For purposes of the patent, the term “construction” means ongoing and substantial work dedicated to the building of the dwelling structures and other improvements necessary for the realization of the low-income affordable housing project located on these lands conveyed under section 7(b) of SNPLMA.
4. Project: For purposes of the patent, the term “Project” means the construction and resulting dwelling structures and other improvements on these lands conveyed under section 7(b) of SNPLMA, as approved by the BLM in consultation with HUD, that are necessary for the realization of the low-income affordable housing purposes.
5. Covenant and Restriction: Clark County is hereby bound and covenants for itself and all successors-in-interest to use the land as approved by the BLM in consultation with HUD, and as conveyed by the patent, only for affordable housing purposes for a period of 40 years (period of affordability). Such period will commence upon the issuance of a certificate of occupancy or its equivalent by the appropriate local government authority. Clark County further hereby covenants and binds itself and all successors-in-interest to develop the subject parcel according to a disposition and development agreement (DDA) between Clark County and its co-developers that has received concurrence by the BLM in consultation with HUD. As in the patent, the DDA shall have a provision stating

that in the event of any conflict between the terms of the DDA and the patent and applicable laws, the patent and applicable laws will control. Affordable housing covenants contained in the DDA will be deemed appurtenant to and run with the land.

6. Time Limit: Reversion and Fair Market Value: If, at the end of 5 years from the date of the patent, the Pebble and Eastern Project is not under construction in accordance with the DDA and the final site plan approved by the BLM in consultation with HUD, then at the option of the United States, the lands, or parts thereof, will revert to the United States, or, in the alternative, the United States may require payment by the owner to the United States of the then fair market value.
7. Use Restriction: Reversion and Fair Market Value: All land conveyed by the patent will be used only for affordable housing purposes as approved by the BLM in consultation with HUD during the period of affordability. If at any time during the period of affordability any portion of the land conveyed by the patent is used for any purpose other than affordable housing purposes by Clark County, or its successor-in-interest, then at the option of the United States, those lands not used for affordable housing purposes will revert to the United States; or, in the alternative, the United States may, at that time, require payment to the United States of the then fair market value, or institute a proceeding in a court of competent jurisdiction to enforce the covenant set forth above to use the land conveyed only for affordable housing purposes.
8. Enforcement: The covenant/use restriction and the reversionary interest may be enforced by the BLM or HUD, or their successors-in-interest, as deemed appropriate by agreement of the Federal agencies at the time of enforcement, after reasonable notice including an opportunity to cure any default (90 days) to Clark

County and the landowner of record. If any necessary cure has not been completed and it is shown that completion of such cure would be impossible by the end of the 90 days, and diligent and substantial efforts are underway to cure such default, the Federal agencies may consider a request for a reasonable extension of time to complete cure of such default.

9. Simultaneous Transfer: Clark County, upon issuance and acceptance of the patent, will simultaneously transfer by deed the land conveyed by this patent to its successor-in-interest, as reviewed and approved by the BLM in consultation with HUD.
10. Indemnification and Hold Harmless: By accepting the patent, Clark County, subject to the limitations of law and to the extent allowed by law, will be responsible for the acts or omissions of its officers, directors, and employees in connection with the use or occupancy of the patented real property. Upon simultaneous transfer as described above, successors-in-interests to Clark County of the patented real property will indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the successors-in-interest, or its employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the successor-in-interest's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the successor-in-interest, and its employees, agents, contractors, or leases, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (1) Violations of Federal, State, and local laws and regulations that are now, or may in the future become, applicable to the real

property; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Other releases or threatened releases of solid or hazardous waste(s) and/or hazardous substance(s), as defined by Federal or State environmental laws, off, on, into, or under land, property, and other interests of the United States; (5) Other activities by which solids or hazardous substances or wastes, as defined by Federal and State environmental laws, are generated, released, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. This covenant will be construed as running with the parcel of land patented or otherwise conveyed by the United States and may be enforced against successors-in-interest by the United States in a court of competent jurisdiction.

If patented, title to the land will be subject to the following numbered reservations to the United States:

1. All minerals are reserved to the United States. Permittees, licensees, and lessees of the United States retain the right to prospect for, mine, and remove such leasable and saleable minerals owned by the United States under applicable law and any regulations that the Secretary of the Interior may prescribe, together with all necessary access and exit rights;
2. A right-of-way for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945); and
3. A reversionary interest as further defined in the above terms, covenants, and conditions.

If patented, title to the land will be subject to:

1. Valid existing rights, including but not limited to those documented on the

BLM public land records at the time of sale and as defined below;

2. A right-of-way for public county road purposes granted to Clark County, its successors and assigns, by right-of-way number N-55084, pursuant to title V of the Act of October 21, 1976; 43 U.S.C. 1761;
3. A right-of-way for an overhead transmission line granted to NV Energy, its successors and assigns, by right-of-way number N-54735, pursuant to title V of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
4. A right-of-way for an electrical distribution line granted to NV Power Co, its successors and assigns, by right-of-way number N-79333, pursuant to title V of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
5. A right-of-way for a natural gas pipeline granted to Southwest Gas Corporation, its successors and assigns, by right-of-way number N-57512, pursuant to title V of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
6. A right-of-way for an overhead transmission line granted to NV Energy, its successors and assigns, by right-of-way number N-78459, pursuant to title V of the Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);

Clark County must remit the remainder of the purchase price within 180 days from the date of receiving the sale offer to the BLM Las Vegas Field Office. Payment must be submitted in the form of a certified check, postal money order, bank draft, cashier's check, or made available by electronic fund transfer made payable in U.S. dollars to the "Department of the Interior - Bureau of Land Management" to the BLM Las Vegas Field Office. The BLM will not accept personal or company checks. Failure to meet conditions established for this sale will void the sale and any funds received will be forfeited. Arrangements for electronic fund transfer to the BLM for payment of the balance due must be made a minimum of 14 days prior to the payment date.

Public comments regarding the sale may be submitted in writing to the address in the “**ADDRESSES**” section. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment — including any personally identifiable information — may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Information concerning the sale parcel, including encumbrances of record, appraisals, reservations, procedures and conditions, Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), and other environmental documents that may appear in the BLM public files for the sale parcel, are available for review.

Any comments regarding the proposed sale will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action in response to such comments. In the absence of any comments, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2711.1-2.

Stephen Leslie,
Assistant Field Manager,
Las Vegas Field Office.

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